

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
 WASHINGTON, D.C. 20554

In the Matter of)

Amendment of Section 73.202(b)
 Table of Allotments
 FM Broadcast Stations
 (Thorndale, Texas)

) MM Docket No. 99-243
) RM-9675
)
)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

REPLY OF HOUSTON CHRISTIAN BROADCASTERS, INC.

Houston Christian Broadcasters, Inc., (hereafter "HCBI") by its undersigned counsel, hereby respectfully submits this "Reply" to the comments filed by various parties in the above-captioned proceeding. HCBI will discuss these comments *seriatim* by each commentator.

I. MUNBILLA BROADCASTING CORPORATION

1. Munbilla Broadcasting Corporation (hereafter "MBC") filed a counterproposal. MBC proposes that FM channel 286A be allotted to Rosebud, Texas. The MBC proposal is mutually exclusive with the HCBI proposal to allot FM channel 286A to Thorndale, Texas, and to designate the use of that channel for noncommercial, educational use.

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2. While MBC proposes Rosebud as a community deserving of the use of FM channel 286A, it has failed to demonstrate in its comments that Rosebud meets the definition of a "community" under the Communications Act of 1934, as amended, for the purposes of an FM channel allotment. MBC states generally in its comments that Rosebud has "its own zip code and a number of local businesses, churches, and other indicia of a community warranting a licensed radio service...", but there is nothing appended to the MBC comments that show the "number" or that confirm these "businesses, churches and other indicia of a community" are actually located within the geographic boundaries of Rosebud. In fact, MBC does not submit a map showing that Rosebud even has identifiable boundaries.

3. Having submitted their counterproposal, the burden was on MBC to demonstrate that Rosebud, Texas is of sufficient size and other indicia of a community to warrant the assignment of a FM channel. MBC has failed to meet this burden and has failed to demonstrate that Rosebud, Texas is a "community" within the definition contained in the Act and the Commission's precedent for assigning FM channels. Thus, the Commission should not consider the MBC counterproposal.

II. ELGIN FM LIMITED PARTNERSHIP

4. Elgin FM Limited Partnership ("Elgin") is a competing applicant with HCBI and others for the present FM channel 257A allotment at Thorndale, Texas. Elgin opposes the allotment of FM channel 286A to Thorndale to the extent that it

will be reserved for noncommercial, educational use. Elgin does not oppose the allocation of FM channel 286A to Thorndale for commercial use.

5. Having taken that position, Elgin also apparently submits a counterproposal. Elgin requests that the Commission assign FM channel 286A to a community described as "Thrall, Texas." Elgin notes that it supports the assignment of FM channel 286A "...either to Thorndale or to Thrall..." However, it "strongly opposes the reservation of the channel for noncommercial use and the proposed grant of that channel to HCBI."

6. Elgin cannot have it both ways. Either it supports the assignment of FM channel 286A to Thorndale, Texas, or it supports the assignment of that channel to Thrall, Texas. The channel cannot be assigned to both communities. Having failed to make a definitive commitment to build and operate a FM station on that channel at either community, the Elgin comments should be summarily dismissed as simply a poor attempt to confuse the FM assignment process in this proceeding. It is clear that a counterproponent must stipulate unequivocally that in the event of the alternative FM allotment it will apply for, build, and operate a FM station on that channel in that community. Elgin has failed to make such a commitment herein.

IV. ROY HENDERSON d/b/a CAMERON BROADCASTING COMPANY

7. A third set of comments were filed by Mr. Roy Henderson d/b/a Cameron Broadcasting Company (hereafter "Henderson"). Mr. Henderson is also an applicant for the FM channel 257A allotment at Thorndale, Texas.

8. Henderson argues that HCBI has not adequately supported its request for the reservation of FM channel 286A for noncommercial, educational use. Henderson submits an engineering exhibit to show that noncommercial FM channel 211 may be utilized from a site approximately 6 miles north of Thorndale, Texas, with facilities of 300 watts at an antenna height above average terrain of 100 meters. Henderson alleges that the availability of such a hypothetical NCE-FM station demonstrates that the FM channel 286A assignment need not be assigned and reserved for noncommercial use.

9. Henderson also argues against the proposed FM channel 296A assignment due to the fact the subject FM allotment is mutually exclusive with an application he filed to modify a construction permit he holds at Cameron, Texas. Henderson filed this application subsequent to the filing date of the HCBI "Petition For Rule Making" herein.

10. As to Henderson's latter point, HCBI has demonstrated in connection with its April 16, 1999 "Petition For Reconsideration" in FCC file BMPH-981202IA that under existing Commission precedent the HCBI proposal herein must be given preferential consideration over the Cameron application due to the simple fact it was filed prior to the filing date of that application. Henderson's comments herein add nothing to his arguments filed in connection with that application, and in support of his "Motion For Stay of Proceeding" and "Petition For Reconsideration" filed in this proceeding. Henderson is simply wrong in his assertion that the Cameron application deserves, or should be

given, a preference over the HCBI proposal for FM channel 286A at Thorndale, Texas.

11. As to Henderson's attempt to rebut the HCBI showing of the unavailability of reserved band, noncommercial FM channels in the Thorndale area, he has merely succeeded in proving HCBI's case in this regard. The only possible noncommercial FM channel that Henderson and his engineering consultant could find that might be feasible for use at Thorndale was one which would be limited to an inferior power of 300 watts and a correspondingly inferior coverage area. The HCBI Engineering Statement attached to the "Petition For Rule Making" demonstrates that FM channel 211 is not available for use for a full power, noncommercial FM station. In fact, the Engineering Statement indicates that FM channel 211 is not available for use at all due to Channel 6 V.H.F. television station KCEN-TV, Temple, Texas. See Engineering Statement of HCBI.

12. Moreover, assuming *arguendo* that a noncommercial FM station could be operated on FM channel 211 at the site, and with the power, proposed by Henderson, it would provide greatly inferior coverage to the 6,000 watt noncommercial FM station on channel 286A proposed by HCBI. Attached hereto is an engineering analysis that shows when compared to the HCBI proposal for FM channel 286A, a noncommercial FM station operating in conformity with the hypothetical facilities proposed by Henderson will serve 923% fewer people, and 343% less area than the HCBI station on channel 286A. The Commission should

not consider limiting the operation of a first, noncommercial FM station at Thorndale, Texas to one that will have such an inferior signal and service area.

WHEREFORE, Houston Christian Broadcasters, Inc. submits that there have been no comments filed herein that eviscerate the original merits of the proposal to assign FM channel 286A to Thorndale, Texas, reserve that channel for noncommercial, educational use, and allow HCBI to modify its pending application for FM channel 257A to specify the use of the new channel. Accordingly, the Commission should adopt the proposal by Houston Christian Broadcasters, Inc. in this regard.

Respectfully submitted,

Houston Christian Broadcasters, Inc.

By. 

Jeffrey D. Southmayd

Its Attorney

Southmayd & Miller
1220 Nineteenth Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 331-4100

Date: September 7, 1999

Lechman & Johnson, Inc.

Telecommunications Consultants
9049 Shady Grove Court
Gaithersburg, Maryland 20877
(301) 921-9080

PETER W. LECHMAN

Facsimile (301) 590-9757
E-Mail mullengr@aol.com

ENGINEERING STATEMENT

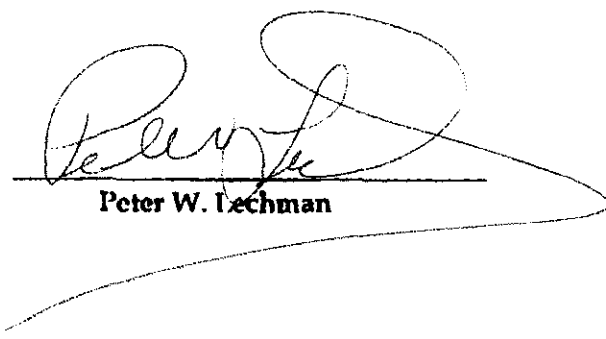
I, Peter W. Lechman, have compared the relative coverage area of a noncommercial FM station operating with a power of 6,000 watts and an antenna HAAT of 100 meters on FM channel 286A at Thorndale, Texas, with the hypothetical noncommercial FM station proposed in the Comments by Mr. Roy Henderson d/b/a Cameron Broadcasting Company in connection with MM Docket No. 99-243. The following reflects the comparative coverage of the two proposals:

PROPOSED CHANNEL FACILITIES POPULATION AREA(SQ. KM)

211A	100 watts @ 100 meters	3,006	568
286A	6,000 watts @ 100 meters	30,751	2,516

Increase of 286A proposal over 211A		923%	343%
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Date: September 7, 1999


Peter W. Lechman

CERTIFICATE OF SERVICE

I, Jeffrey D. Southmayd, do hereby certify that I have caused a copy of the foregoing to be served by first class United States mail, postage pre-paid, on the following on this 7th day of September, 1999.

Robert L. Thompson, Esquire
Taylor, Thiemann & Aitken, L.C.
908 King Street, Suite 300
Alexandria, Virginia 22314
Counsel to Charles E. Crawford

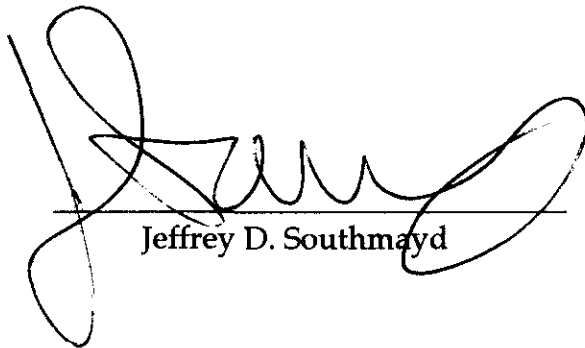
Lee J. Peltzman, Esquire
Shainis & Peltzman, Chtd.
Suite 290
1901 L Street, N.W.
Washington, D.C. 20036
Counsel to Double K Broadcasting

Henry E. Crawford, Esquire
Suite 900
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036-4192
Counsel to Roy Henderson
d/b/a Jackson Lake Broadcasting, Co.
and Cameron Broadcasting Company

Robert J. Buenzle, Esquire
12110 Sunset Hills Road
Suite 450
Reston, Virginia 22090
Counsel to Centex Broadcasting Co.

Ms. Ann C. Farhat
Bechtel & Cole, Chtd.
Suite 250
1901 L Street, N.W.
Washington, D.C. 20036
Counsel to Elgin FM LP

John A. Karousos
Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554



Jeffrey D. Southmayd